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CERTIFIED MAIL

Dear Applicant:

We have completed our review of your application for recognition of exemption from federal income tax under section 501(c)(7) of the Internal Revenue Code.

The evidence submitted indicates that you were formed ██████████, under the name ██████████ to perform and encourage the enjoyment of ██████████ music. Membership in your organization will be by invitation and shall consist of active and associate members. All members of your organization must be qualified musicians. Other requirements for active membership include acceptable performance of current repertoire, satisfactory rehearsal attendance and cooperation.

Income to your organization has been entirely from fees received from musical performances at weddings, anniversaries and other affairs. During the period ██████████ through ██████████ your organization received approximately \$██████████ from performances at these various functions.

Expenses have been for supplies, music, printing, costumes and other similar type items.

Section 501(c)(7) of the Internal Revenue Code provides for the exemption from federal income tax of clubs organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(7) of the Income Tax Regulations relating to the exemption of social clubs under section 501(a) of the Internal Revenue Code reads as follows:

The exemption provided by section 501(a) for organizations described in section 501(c)(7) applies only to clubs which are organized and operated exclusively for pleasure, recreation and other non-profitable purposes, but does not apply to any club if any part of its net earnings inures to the benefit of any private shareholder or individual. In general, this exemption extends to social and recreational clubs which are supported solely by membership fees, dues and assessments.

A club which engages in business, such as making its social and recreational facilities available to the general public or by providing services for a fee in a manner similar to a commercial business is not organized and operated exclusively for pleasure and recreation. Solicitation by advertisement or otherwise for public patronage is prima facie evidence that the club is engaging in a business and is not being operated exclusively for pleasure, recreation or social purposes.

Public Law 94-568, as explained in Senate Report No. 94-1318, published in Cumulative Bulletin 1976-2, page 597, provides that a club exempt from taxation and described in section 501(c)(7) is to be permitted to receive up to 35% of its gross receipts from a combination of investment income and receipts from non-members (from the use of its facilities or services) so long as the latter do not represent more than 15 percent of the total receipts.

Our review of the application submitted indicates that your organization is operating in a manner similar to a trade or business since your sole source of income is gained from performing services at various private functions for a fee. This makes your organization indistinguishable from a business operated for profit. In addition, since all of your income comes from sources outside of your organization, your non-member income constitutes 100% of your financial support and this amount greatly exceeds the 15% limit permitted by Public Law 94-568.

Based on the information submitted, your organization does not qualify for exempt under section 501(c)(7) since you operate in a commercial manner and your non-member income exceeds the amount permitted by law. Therefore, you are a taxable entity and required to file federal income tax returns on Form 1120.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If you will be represented by someone who is not one of your principal officers, that person will need to file a power of attorney or tax information authorization with us.

[REDACTED]

If you do not appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination of this matter.

Sincerely yours,

[REDACTED]

[REDACTED]
District Director

Enclosure: Publication 892